

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

ORDER CERTIFYING THE INTERLOCUTORY APPEAL IS NOT TAKEN IN
GOOD FAITH AND
DIRECTING PLAINTIFF TO FILE UPDATED FINANCIAL INFORMATION
OR PAY THE FULL \$505 APPELLATE FILING FEE

On September 24, 2014, Plaintiff Tracy L. Finley, a prisoner acting *pro se*, filed a notice of interlocutory appeal (ECF No. 69) from the Court's order granting the Defendants' motion for summary judgment on certain claims (ECF No. 65). Because the appeal is taken from a non-final order, the Court hereby CERTIFIES, pursuant to 28 U.S.C. § 1915(a)(3), that the appeal is not taken in good faith.

Generally, a plaintiff granted leave to proceed *in forma pauperis* is not required to pay the filing fee. 28 U.S.C. § 1915(a)(1). Because Plaintiff is a prisoner, however, he must pay the entire \$505 appellate filing fee, although he may be able to take advantage of the installment payment method of § 1915(b). *See McGore v. Wrigglesworth*, 114 F.3d 601, 604 (6th Cir. 1997), partially overruled on other grounds by *LaFountain v. Harry*, 716 F.3d 944, 951 (6th Cir. 2013). In order to take advantage of the installment procedures, a prisoner plaintiff must submit, along with the

notice of appeal, an application to proceed *in forma pauperis* and a certified copy of his prison trust account statement for the last six months. *Id.* at 610; 28 U.S.C. § 1915(a)(2).

In this case, Plaintiff did not submit an updated *in forma pauperis* affidavit and trust account statement with the notice of appeal. Therefore, at the present time, he is not eligible to take advantage of the installment procedures of § 1915(b). Plaintiff is, however, liable to the Court for the full \$505 appellate filing fee, which accrued at the moment the notice of appeal was filed. Accordingly, Plaintiff is hereby ORDERED to submit either the full \$505 appellate filing fee or an updated *in forma pauperis* affidavit and trust account statement within 30 days after the date of this order. If Plaintiff needs additional time to file the required documents, he may request one 30-day extension of time from this Court.

If Plaintiff fails to file the required documents in a timely manner, the Court will assess the entire \$505 filing fee from his inmate trust account without regard to the installment procedures, and the Sixth Circuit may dismiss the appeal for failure to prosecute. However, if Plaintiff timely submits the proper documents and the Court finds that he is indigent, then the Court will assess the filing fee in accordance with the installment procedures of 28 U.S.C. § 1915(b).

The Clerk is directed to provide Plaintiff with a copy of the prisoner affidavit form along with this order. The Clerk is further directed to notify the Sixth Circuit of the entry of this order.

IT IS SO ORDERED.

s/ James D. Todd
JAMES D. TODD
UNITED STATES DISTRICT JUDGE